Meeting Minutes — Bar Harbor Planning Board Wednesday, March 2, 2022 — 4:00 PM Remote Meeting – held via Zoom webinar

Under the Planning Board's Remote Participation Policy, this meeting was conducted fully remotely (via the online video meeting platform Zoom) due to the urgent issue of the continuing COVID-19 pandemic and the declarations of a public health emergency by both the US and Maine departments of Health and Human Services.

Members of the public were able to view the proceeding by watching Spectrum channel 7 (in Bar Harbor) or by visiting https://www.townhallstreams.com and selecting Bar Harbor from the dropdown menu. Instructions on how to join the Zoom webinar and to offer comment during the public hearing portion of the meeting were posted online, in advance of the meeting, at:

https://www.barharbormaine.gov/282/Planning-Board.

I. CALL TO ORDER

Chairperson St. Germain called the meeting to order at 4:03 PM. Planning Board members present were Chairperson Tom St. Germain, Vice-chairperson Joe Cough, Secretary Millard Dority, and members Ruth Eveland, Earl Brechlin, Elissa Chesler and Zachary Soares.

Town staff members present were Planning Director Michele Gagnon, Code Enforcement Officer Angela Chamberlain, Deputy Code Enforcement Officer Mike Gurtler and Assistant Planner Steve Fuller.

Jennifer Fisk, Joshua and Kaitlin Hodgkins, Sam Coplon, Timothy Lock, Darron Collins and Alina Watt were also present.

II. ADOPTION OF THE AGENDA

Secretary Dority moved to adopt the agenda. Ms. Chesler seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.

III. EXCUSED ABSENCES

As all members were present, there were no absences to excuse.

IV. PUBLIC COMMENT PERIOD

Chairperson St. Germain opened the public comment period at 4:05 PM. Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one indicated a desire to speak, however, and so the public comment period was subsequently closed at 4:06 PM.

V. APPROVAL OF MINUTES

a. February 2, 2022

Secretary Dority moved to approve the minutes of February 2, 2022. Mr. Brechlin seconded the motion, which then carried unanimously, 6-0, on a roll-call vote. Mr. Soares abstained, as he was not a member of the Planning Board during its February 2 meeting.

VI. REGULAR BUSINESS

a. Completeness Review for Subdivision Plan Modification SD-2021-05 — Clark Acres Subdivision, Fisk Lot Line

Applicant/Owner: Jennifer Fisk, 54 Gretas Lane, Bar Harbor, Maine 04609
Application: The applicant proposes a modification to the 1989 Clark Acres Subdivision, most recently modified in 2020. The applicant proposes to split Tax Map 227, Lot 100, that encompasses ±12.08 acres according to the town tax records, into two lots. Presently there is a house and the Acadia Woods Kennel (a full-service pet care facility) on the parcel. The split will create a front lot of about 5 acres to include the Acadia Woods Kennel and a back lot of about 7 acres to include the house. A 30-foot right-of-way, off the Crooked Road, will serve both lots.

Project Location: 54 Gretas Lane (Tax Map 227, Lot 100), encompassing a total of ±12.08, acres according to town tax records.

District: Town Hill Rural

Jennifer Fisk gave an overview of the project. She noted that nothing would change on the property other than the division of the one lot into two lots and the ownership of the lots. Chairperson St. Germain asked for questions from Board members; none were raised.

Chairperson St. Germain opened the public comment period at 4:12 PM. Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one indicated a desire to speak, however, and so the public comment period was subsequently closed at 4:14 PM.

Secretary Dority moved to grant the waivers as requested by the applicant, as such waivers will not unduly restrict the review process as they are inapplicable, unnecessary or inappropriate for completeness review. Mr. Brechlin seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.

Secretary Dority moved to find the application SD-2021-05 — Clark Acres Subdivision, Fisk Lot Line complete per the Bar Harbor Land Use Ordinance §125-66 and to schedule a public hearing on the application on April 6, 2022, with the condition that the description of the 30-foot right of way be added to the new deed before final approval of the application. Mr. Brechlin seconded the motion. Discussion followed. Ms. Chesler said some of the exhibits were not very well labeled, although she was ultimately able to figure it out. She was willing to move forward without the motion being amended. The motion as originally stated then carried unanimously, 7-0, on a roll call vote.

b. Completeness Review for Site Plan SP-2021-05 — Evergreen Yurts Applicant/Owner: Joshua and Kaitlin Hodgkins, 882 State Highway 3, Bar Harbor, Maine 04609

Application: The applicant proposes to build eight, one-bedroom yurts with bathrooms, one common building with laundry, recreational amenities. The existing driveway will be upgraded. A one-way loop will serve the yurts.

Project Location: Off of State Highway 3 (Tax Map 206, Lot 61-2), encompassing a total of ±21.15 acres according to town tax records

Districts: Salisbury Cove Rural and Stream Protection

Joshua and Kaitlin Hodgkins gave an overview of the project. The yurts will be completely plumbed, said Ms. Hodgkins. There will be a communal fire pit but there will not be fire pits at each site; there will be picnic tables, lights and parking spaces at each site. Sam Coplon of Coplon Associates, who had assisted the Hodgkins with site planning, noted that the area has a fairly open understory and will require minimal clearing. There is an existing network of woods roads, he said. The loop shown on the plans is basically an existing loop road. Most of the impact on the landscape is located on previously disturbed or cleared areas, said Mr. Coplon.

Chairperson St. Germain opened the meeting to questions from the Board. Ms. Eveland asked a question regarding septic. Mr. Coplon clarified that laundry is only for use by the owners of the development for things like bedding, and not by the guests themselves. Ms. Eveland asked about inconsistencies relating to signs; Mr. Coplon clarified that there will be internal directional signs but no signs on the public way. Ms. Hodgkins said there would not be a large sign on Route 3 with the name of the project. Secretary Dority asked how guests would find the location. There's a clear number on the road and existing street name, said Mr. Coplon, that would direct guests.

Ms. Chesler requested to see written clarification that a survey initially requested by the Maine Historic Preservation Commission would no longer be required. Mr. Coplon said the applicant had written the commission to request that but had yet to receive a response. Ms. Chesler asked whether there would be access to Northeast Creek with a path or walkway. There are historic footpaths on the land for guests to use, said Ms. Hodgkins. They will not be improved or changed. The Historic Preservation Commission should know where those are and potentially survey them, said Ms. Chesler. Mr. Coplon said any earth moving is well clear of the zone of interest; there is an updated plan showing distances. There was some discussion on the footpaths. It would be ideal to have their current location marked on the overall site plan, said Ms. Chesler.

Planning Director Gagnon agreed with Ms. Chesler's idea that the applicant show the paths on the existing plan. Planning Director Gagnon said anything that involved soil disturbance to the paths would mean the applicant would have to return to the Planning Board.

Mr. Brechlin asked a question about vegetation, landscape and buffering and whether there should be more detailed information in writing provided under §125-69 D. (4). He referenced a comment the Planning Board received from an abutter, on the subject of buffering. Ms. Hodgkins said they would be happy to plant trees. Mr. Coplon said the applicant could show more detailed information on buffering in an updated plan to be provided in advance of the anticipated public hearing at the Planning Board in April.

Vice-chairperson Cough asked for a description of the lot layout and vegetation. The lot was harvested roughly eight years ago, said Mr. Hodgkins. There is a small clearing there now. Ms. Hodgkins said they plan to plant trees and perhaps put a garden or solar panels in that space. The area is partially wooded and partially open, said Mr. Coplon. That will get turned into a usable green space. There is a buffer of trees along the property line that eventually tapers to a point.

Discussion turned to waivers. Chairperson St. Germain asked whether Item 4. A. of the Site Plan/Subdivision Application Checklist should be an exhibit; Planning Director Gagnon indicated yes. He asked the same question about Item 7.1 regarding sewage disposal. Planning Director Gagnon said subsurface wastewater disposal was covered under checklist Item 15.

Chairperson St. Germain asked for clarification regarding certain letters under Item 9 in the checklist. What is necessary has been provided, said Planning Director Gagnon, while certain ones are only relevant for subdivisions. Chairperson St. Germain asked why Item 10 was waived. Ms. Hodgkins noted a statement in the application that spoke to that question.

There was a discussion on surveys and profiles. Chairperson St. Germain asked whether Item 12.C should be an exhibit. Yes, said Planning Director Gagnon. There was a question on detailed specs on the road, she said. There are a number of driveway standards, said Code Enforcement Officer Chamberlain, who then enumerated some of them. The width of the project road standard is noted on the site plan, said Mr. Coplon. Typical driveway construction standard is shown, he added. Chairperson St. Germain asked about fire protection, Item 18 A. The Fire Department letter is not there yet, said Planning Director Gagnon. That is typically provided at the second meeting, she said. No concerns were mentioned by the Fire Chief, she said.

Chairperson St. Germain asked a question regarding the lighting plan and total lumens. He asked if the Board could get cut sheets to show the lighting. He asked if the 1,800 lumens limit was for individual fixtures or collective, for all the fixtures in aggregate. If the fixture doesn't exceed 1,800 lumens it is typically exempt, said Planning Director Gagnon. All lighting less than 1,800 lumens is exempt, said Code Enforcement Officer Chamberlain, even if it adds up to more in the aggregate. Secretary Dority asked whether there would be lighting along the road. There is no lighting planned on the road, said Mr. Coplon. The idea is to not have too much lighting and to keep it as much of a natural and wooded experience as possible, he said.

Ms. Eveland asked about the proposed wells on site, their location, and their expected use. She said she just wanted to make sure there was enough water on site to serve the proposed use.

Secretary Dority moved to grant the waivers granted requested by the applicant, with the exception of Items 4.8, 7.1E, 11 A, B and C, and 12.C, as the other waivers will not unduly restrict the review process as they are inapplicable, unnecessary or inappropriate for completeness review. Mr. Brechlin seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.

Secretary Dority moved to find application SP-2021-05 — Evergreen Yurts — incomplete per the Bar Harbor Land Use ordinance §125-66, as the 30-foot right of way over Betsy Corrigan's property is not formalized, the Fire Department and the Public Works Department capacity letters have not been submitted, and the Fire Marshal has not completed its review of the project and Board members have concerns about waivers listed in the prior motion, and to schedule a public hearing on April 6, 2022. Mr. Brechlin seconded the motion. Vice-chairperson Cough asked whether the applicant would be able to meet the necessary submission deadline in order for compliance review/public hearing to be held on April 6, 2022; Mr. Coplon said everything within control of the applicant would be submitted in time. Planning Director Gagnon noted there had not been an opportunity for public comment.

Chairperson St. Germain opened the meeting for public comment. Assistant Planner Fuller shared (via the screen share feature) the information for how to join and participate in the Zoom webinar. No one indicated a desire to speak, however, and so the public comment period was subsequently closed.

The motion to find the application incomplete but schedule it for a public hearing on April 6, 2022, then carried unanimously (7-0) on a roll-call vote.

c. Completeness Review for Site Plan SP-2022-01 — College of the Atlantic Student Housing

Applicant/Owner: College of the Atlantic, C/O Bear Paul, 106 Eden Street, Bar Harbor, Maine 04609

Application: The applicant proposes to build a three-story building for student housing. The building will house a maximum of 50 students. The building will be connected to existing campus utilities and infrastructure. Several small outbuildings will be relocated/removed. The project is intended to meet the needs of the existing student/staff population, not to expand it.

Project Location: 105 Eden Street (Tax Map 101, Lot 5), encompassing a total of ±36.07 acres, according to town tax records.

District: Educational Institution

Secretary Dority suggested that he recuse himself due to a long-standing relationship with College of the Atlantic (COA), even though he was no longer directly employed by the College. Chairperson St. Germain asked for guidance from Vice-chairperson Cough. A Board member should make a motion either that Secretary Dority be recused for the reasons outlined or instead find that there was no conflict of interest, said Vice-chairperson Cough.

Vice-chairperson Cough moved that Secretary Dority does have a conflict of interest with regard to application SP-2022-01 — College of the Atlantic Student Housing. Mr. Brechlin seconded. Discussion followed. Chairperson St. Germain said he did not feel Secretary Dority had a conflict of interest as he was no longer employed by COA. Chairperson St. Germain raised a concern regarding parking and said Secretary Dority had expertise in that regard and others which would be valuable for the Board to hear during its review of this particular application.

Ms. Chesler said she did not feel Secretary Dority had a financial conflict of interest and had no problem with him participating in the discussion. Mr. Brechlin asked whether Secretary Dority materially participated in the creation of the project or application in question. Secretary Dority replied that he was very involved in the planning. Secretary Dority added that he felt the mere perception of his involvement was "not something the Planning Board needs." Vice-chairperson Cough said there was no question about Secretary Dority's integrity, and nobody disagreed.

The motion to find Secretary Dority had a conflict of interest on this application then carried without opposition, 5-0, on a roll-call vote, with Secretary Dority not voting and Mr. Soares abstaining. With that, the voting membership of the Board dropped to six.

Mr. Soares explained that he is a current staff member and visiting faculty member at College of the Atlantic and suggested he be recused from both the discussion and vote on this application.

Ms. Eveland moved to recuse Mr. Soares from the vote and discussion on application SP-2022-01 — College of the Atlantic Student Housing. Ms. Chesler seconded the motion and it then carried without opposition (5-0) on a roll-call vote, with Mr. Soares abstaining and Secretary Dority already recused. The Board's voting membership then dropped to five.

Darron Collins, president of COA, gave an overview of the project. It is part of the College's long-term strategy. First, the College has put a ceiling on the number of students, at 350. "Being small is part of the secret sauce of the College," said Mr. Collins, and the College is committed to staying at 350 students. The College needs to house more students in COA-managed housing both on and off campus. The goal is to house at least 75% of students in COA-managed housing.

The project has four guardrails: scale and location, sustainability, cost and schedule. The College recently completed a \$55-million capital campaign and has the funds; officials would like to have this complete and ready for move-in by the fall of 2023, said Mr. Collins.

Timothy Lock, management partner at OPAL Global LLC (architect of record for the project), provided more information. The building will have common space on the first floor and residences on the second and third floors. It will be fully sprinkled. It is located on a previously disturbed site. The building will be served by existing infrastructure, said Alina Watt of Hedefine Engineering & Design, Inc. This project would require a major amendment to an existing DEP Site Location of Development permit on the campus. That application is being pulled together.

Does this mean there will be fewer COA students looking for housing in-town, asked Chairperson St. Germain. Yes, said Mr. Collins. Vice-chairperson Cough asked how close this project would get the College to its 75% goal. This will get us to 81%, said Mr. Collins.

Chairperson St. Germain opened the meeting for public comment. Assistant Planner Fuller shared (via the screen share feature) the information for how to join and participate in the Zoom webinar. No one indicated a desire to speak, however, and so the public comment period was subsequently closed.

Chairperson St. Germain asked a number of questions regarding waivers under the Site Plan/Subdivision Application Checklist. The applicant is requesting a waiver for Item 9.G, but it is typical for the Board to ask for total lot coverage, said Chairperson St. Germain. Under Item 9.Y, it says "exhibit" but the applicant is asking for a waiver. If it is an exhibit, he asked, why is it being asked for as a waiver?

Chairperson St. Germain raised a question regarding parking. The Planning Board is required to look at parking for the entire application, he said, and wondered whether the Planning Board should grant a waiver for that. Code Enforcement Officer Chamberlain read from a staff report on a previous COA application that had been supplied by the school in 2019, she said.

Current parking is adequate for the size of the College, said Ms. Chesler, and there will not be additional students on campus as a result of the housing. Ms. Eveland asked what the policy is regarding students having cars on campus. If that information was available from several years ago it would not be difficult to put together an amended site plan to include those items, said Vice-chairperson Cough.

Chairperson St. Germain asked about lighting. He asked why, if a lighting plan was being provided, they would ask for a waiver. Planning Director Gagnon said the idea is the lighting plan can be waived if the applicant can demonstrate the lighting is less than 1,800 lumens, and that the information provided by the applicant was to show they were not exceeding that level.

Ms. Chesler moved to grant the waivers requested by the applicant as such waivers will not unduly restrict the review process as they are inapplicable, unnecessary or inappropriate for completeness review. Mr. Brechlin seconded the motion. Planning Director Gagnon noted that there were exceptions to the waiver requests. Ms. Chesler amended her original motion,

moving to grant the waivers requested by the applicant with the exception of Items 9.G and 9.II, as such waivers will not unduly restrict the review process as they are inapplicable, unnecessary or inappropriate for completeness review. Mr. Brechlin seconded the amended motion. The amended motion then carried unanimously, 5-0, on a roll-call vote.

Chairperson St. Germain noted some of the documents in the application were from a previous site plan (for the Center for Human Ecology). He asked if Board members were comfortable with that. Ms. Watt said those documents were also used in the applicant's revised submission to the Department of Environmental Protection, and that that agency typically considers such documents valid for a period of five years. She said the applicant was looking to take the same approach with the Planning Board in its review of the proposed new project.

Planning Director Gagnon said that she, for one, was comfortable with this approach. Vice-chairperson Cough said any items that may have changed since those earlier plans should be shown on plans in this newer application. "Sometimes things change," he said. Ms. Chesler agreed. Ms. Watt said many of the documents supplied that were used for the SLODA permit were used for the entire campus. Many were agency reviews for things that do not change over the course of several years. Anything specific to the site has been updated, she said.

Planning Director Gagnon noted that the applicant had taken multiple lots that existed previously and merged them into one lot. She said this approach should be beneficial to all involved.

Planning Director Gagnon suggested it was most important to give the applicant guidance regarding next steps for parking and whether more parking would be required or if the Board simply wants to know what is available. Vice-chair Cough said the Board could not offer much in the way of guidance, from his perspective, without more information from the applicant.

Secretary Dority, speaking not as a Board member but as a former employee of COA who was closely involved with the development of this project, said the college has always aimed to be clear about parking. He said it had always been careful to provide one space for each classroom and whatever the appropriate number was for employees. He said he believed COA had exceeded, and still was exceeding, anything required by the Land Use Ordinance for parking.

Chairperson St. Germain asked if anyone recalled what parking standards had been applied several years ago for COA's most recent large-scale project (Center for Human Ecology). Code Enforcement Officer Chamberlain recalled that the school had provided a plan with a table clearly showing all the parking spaces and how the number had been calculated. She said it seemed to her that if nothing had changed regarding parking that plan would be sufficient.

Chairperson St. Germain wanted a way to make parking requirements clear in advance of the public hearing and make sure the applicant could be secure in the knowledge their method for calculating parking meets requirements (to satisfy a future Planning Board, as/if needed).

Planning Director Gagnon said the question would be if parking was scattered all over the place with ingress and egress being obstructed (in which case there would be a safety issue). If that was not the situation, then there wouldn't be an issue with parking, she said. She said if the Fire Chief was comfortable and there is no real standard for this particular use under ordinance, then the Planning Board cannot apply a standard without opening itself up to a possible challenge. She said town staff had heard nothing to indicate that there was a problem with current parking.

Mr. Collins said he was curious as to why this was seen as an issue. He said this housing will not change parking demands on campus. Students will have to get to campus whether they live on or off campus, he said, and housing them on campus would not increase the number of cars. The Board is required to review parking, said Chairperson St. Germain, and he read the requirement. The number of people shouldn't change, said Ms. Chesler, and it may be easier for students to attend without a car given that they will be on campus (and would not need to drive from town to COA). Chairperson St. Germain said it was not necessarily an increase but was a change, given that 50 more students will be living on campus, and that it falls to the Board to review parking.

Code Enforcement Officer Chamberlain read information on how parking spaces were calculated for the previous project (Center for Human Ecology). COA was required to have 84 spaces per the Bar Harbor Land Use Ordinance and there are 188 on the site, she said. Nowhere in the requirements does it account for parking necessary for 350 students, said Ms. Chesler.

In discussion, it was stated 76 or 77 of the parking spaces were based on a calculation for approximately 115 faculty/staff members, and that the remaining 111 or 112 (the difference between 188 and 76 or 77) were "adequate to meet the needs of the specific operators."

Is there a standard we can apply? asked Chairperson St. Germain. The parking data from 2018 would be a good jumping-off point, said Mr. Brechlin, as would consulting with the Fire Department as suggested by town staff. Chairperson St. Germain agreed. It would behoove future applications to have some better standard so no one is caught off-guard, he added.

Mr. Collins asked what Chairperson St. Germain meant by caught off-guard and who would decide. A future Board could, hypothetically, decide 188 spaces isn't enough, said Chairperson St. Germain, and COA could refer back to the Board's findings in this application to indicate there is adequate parking. Showing how they're meeting the guidelines, even if those guidelines aren't specific, said Ms. Chesler, would be acceptable. They may have more insight into the number of vehicles and parking spaces on campus.

Mr. Brechlin moved to find the application SP-2022-01 — College of the Atlantic Student Housing incomplete per the Bar Harbor Land Use Ordinance §125-66 as the Maine DEP Site Location of Development Permit is not included, the Fire Marshal has not yet

approved the application, the Fire Department, Public Works, the Water Department and Sewer Department Capacity letters have not been submitted and more information under Site Plan/Subdivision Application Checklist, Item 9.II, regarding additional detail of existing parking and information and description of how existing parking is used is necessary, and to schedule a public hearing on April 6, 2022. The motion was seconded by Ms. Chesler. Chairperson St. Germain noted that Vice-chairperson Cough was no longer present; Assistant Planner Fuller said Vice-chairperson Cough had advised he might have a period of no cell service. The motion then carried 4-0 on a roll-call vote. (With Vice-chair Cough being temporarily unavailable, the Board's voting membership dropped to four).

Secretary Dority and Mr. Soares re-entered the meeting. Assistant Planner Fuller noted that Vice-chairperson Cough had rejoined the meeting; Vice-chairperson Cough said he hadn't missed "more than a minute or two," due to a drop in cell phone coverage while traveling. With the three of them back, the Board's voting membership then returned to seven members.

VII. OTHER BUSINESS

a. Comprehensive Plan Update - Elissa Chesler

The Comprehensive Planning Committee is continuing its work, said Ms. Chesler. The topic for the next meeting is economy and transportation. A housing discussion at the last meeting was "extremely lively." That is a priority issue the Committee will be working on. The stakeholder input form is now live and Board members may contribute information using that form. Planning Director Gagnon explained how to comment.

There is a lot of concern about affordability, availability and attainability of housing, said Ms. Chesler. There was not a lot of concrete discussion on where that housing could go. There was not much contentiousness to the discussion, she said, but many wrinkles were raised related to housing issues. Those are reflected in the meeting minutes that were distributed to the Board.

Assistant Planner Fuller shared his screen and put up some information on how to participate. Planning Director Gagnon noted the information would be put in just one spot within a week.

VIII. BOARD MEMBER COMMENTS/SUGGESTIONS FOR THE NEXT AGENDA

Planning Director Gagnon asked whether the Board would be meeting in-person in the future. The Town Council is allowing each board to decide. Ms. Chesler suggested basing it on the CDC's three-color system. She would prefer to be remote if members were going to be required to wear masks. Vice-chairperson Cough wanted to be in-person but would rather be remote than wear a mask. Masking indoors is recommended by the CDC, said Deputy CEO Mike Gurtler, based on the current CDC community levels in Hancock County. Discussion continued. Planning Director Gagnon suggested making a decision early enough for staff to give proper public notice.

Vice-chairperson Cough was comfortable with Chairperson St. Germain making a decision prior to March 18, 2022, to give staff that time. There was more discussion on the issue. Board members were optimistic that they could meet in person, without masks, on April 6, 2022.

There will be a workshop (remote, via Zoom) on March 16, 2022 at 5:15 PM, said Planning Director Gagnon, to discuss areas of concern in the PUD.

Secretary Dority thanked Planning Director Gagnon for organizing the recent workshop on housing. Assistant Planner Fuller thanked Secretary Dority for attending from afar (Secretary Dority attended the February workshop via Zoom from his hospital room) and noted that the workshop was recorded and uploaded to the Town Hall Streams website. Vice-chairperson Cough was unable to connect to the workshop on housing but said he did listen and that it was great. He thanked staff; Ms. Chesler agreed and said she would love to see the data charted out.

IX. REVIEW OF PENDING PLANNING BOARD PROJECTS None.

X. ADJOURNMENT

At 6:49 PM, Ms. Chesler moved to adjourn. Vice-chair Cough seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

Minutes approved by the Bar Harbor Planning Board on April 6, 2022:

Date

Millard Dority

Secretary, Bar Harbor Planning Board